

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

JONATHAN SHANE HATSWELL and  
KATHERINE LOU HATSWELL,

Plaintiffs,

Judge Stephen J. Murphy, III  
Magistrate R. Steven Whalen  
No. 18-10366

v

FOWLerville COMMUNITY SCHOOLS,

Defendant.

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JONATHAN SHANE HATSWELL  
KATHERINE LOU HATSWELL  
*In Pro Per*  
10990 Mohrle Road  
Webberville, MI 48892

TIMOTHY J. MULLINS (P28021)  
KENNETH B. CHAPIE (P66148)  
GIARMARCO, MULLINS & HORTON, P.C.  
*Attorneys for Defendant*  
101 W. Big Beaver Road, 10<sup>th</sup> Floor  
Troy, MI 48084-5280  
(248) 457-7020  
[tmullins@gmhlaw.com](mailto:tmullins@gmhlaw.com)  
[kchapie@gmhlaw.com](mailto:kchapie@gmhlaw.com)

**ANSWER**

Defendant, FOWLerville COMMUNITY SCHOOLS, by and through its attorneys, GIARMARCO, MULLINS & HORTON, P.C., states its answer to Plaintiffs' Complaint as follows<sup>1</sup>:

1. In answer to paragraph 1, Defendant denies the allegations contained therein for the reason that they are untrue.

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<sup>1</sup> Defendant has numbered its responses in accord with each unnumbered paragraph of Plaintiffs' Complaint.

2. In answer to paragraph 2, Defendant denies the allegations contained therein for the reason that they are untrue.

3. In answer to paragraph 3, Defendant denies the allegations contained therein for the reason that they are untrue.

4. In answer to paragraph 4, Defendant denies the allegations contained therein for the reason that they are untrue.

5. In answer to paragraph 5, Defendant denies the allegations contained therein for the reason that they are untrue.

6. In answer to paragraph 6, Defendant denies the allegations contained therein for the reason that they are untrue.

7. In answer to paragraph 7, Defendant denies the allegations contained therein for the reason that they are untrue.

8. In answer to paragraph 8, Defendant denies the allegations contained therein for the reason that they are untrue.

9. In answer to paragraph 9, Defendant denies the allegations contained therein for the reason that they are untrue.

10. In answer to paragraph 10, Defendant denies the allegations contained therein for the reason that they are untrue.

11. In answer to paragraph 11, Defendant denies the allegations contained therein for the reason that they are untrue.

12. In answer to paragraph 12, Defendant denies the allegations contained therein for the reason that they are untrue.

13. In answer to paragraph 13, Defendant denies the allegations contained therein for the reason that they are untrue.

14. In answer to paragraph 14, Defendant denies the allegations contained therein for the reason that they are untrue.

WHEREFORE, Defendant, FOWLerville COMMUNITY SCHOOLS, respectfully requests that this Honorable Court enter an order of no cause of action as to Defendant, together with costs and attorney fees so wrongfully sustained.

s/TIMOTHY J. MULLINS

GIARMARCO, MULLINS & HORTON, PC  
Attorney for Defendant

DATED: February 8, 2018

**AFFIRMATIVE DEFENSES**

Defendant, FOWLerville COMMUNITY SCHOOLS, by and through its attorneys, GIARMARCO, MULLINS & HORTON, P.C., states its Affirmative Defenses as follows:

1. Defendant will show at the time of trial that at all times pertinent hereto, it was engaged in the performance of governmental functions and is, therefore, immune from suit for civil damages for this claim pursuant to the principles of governmental immunity as set forth in the case law and statutes of this State.

2. Defendant will show at the time of trial that all actions or communications complained of in Plaintiffs' Complaint were absolutely or qualifiedly privileged pursuant to the Constitutions, statutes and common law of the State of Michigan and of the United States, and Defendant has never acted or communicated with malice in reference to the Plaintiffs.

3. Defendants will show and rely upon at the time of trial that Plaintiffs were guilty of negligence or other conduct which was the sole cause or a partial cause of any action or injury complained of, that said contributory/comparative negligence constitutes proximate cause of the actions or injuries complained of and, as a result, Plaintiffs' claim for damages is barred or diminished by such contributory/comparative negligence.

4. Defendant will show and rely upon at the time of trial that Plaintiffs were afforded all requisite due process through the course of the proceedings complained of.

5. Defendant will show and rely upon at the time of trial that the conduct of Plaintiffs established, or otherwise admitted to by Plaintiffs, justified, if not mandated, the discipline complained of.

6. Plaintiffs cannot show that they are likely to succeed on their claims at the time of trial because they were not deprived of their procedural or substantive due process rights.

7. Plaintiffs have failed to exhaust their administrative remedies.

8. This Court lacks jurisdiction over the subject matter of Plaintiffs' Complaint.

9. Any conduct and/or actions complained of by Plaintiffs herein were authorized, consented to and have otherwise been released by Plaintiffs.

10. Plaintiffs' claim is barred by the Michigan Revised School Code.

11. Plaintiffs' Complaint is conclusory in nature and fails to state a claim and sufficient facts upon which relief can be granted.

12. Defendants will show that Plaintiffs have failed to prove any deprivation of a Federal right, nor have Plaintiffs alleged or proven an act of deprivation taken under color of law sufficient to maintain an action based upon the First, Fourth, Fifth, Sixth, Ninth or Fourteenth Amendment; 42 USC §1983; 18 USC 241, 242 or 245; or the Michigan constitution or statutes.

13. Defendant will show and rely upon at the time of trial that Plaintiffs have failed to provide proper notice to Defendant.

14. Plaintiffs' Complaint is barred by the provisions of the Eleventh Amendment.

15. Plaintiffs' claim is barred by claim and issue preclusion.

16. Defendant reserves the right to amend its Answer, including additional Affirmative Defenses, upon completion of investigation and discovery of this cause.

s/TIMOTHY J. MULLINS  
GIARMARCO, MULLINS & HORTON, PC  
Attorney for Defendant

DATED: February 8, 2018

**JURY DEMAND**

Defendant, FOWLerville COMMUNITY SCHOOLS, by and through its attorneys, GIARMARCO, MULLINS & HORTON, P.C., hereby demands a jury as to all issues of trial.

s/TIMOTHY J. MULLINS  
GIARMARCO, MULLINS & HORTON, PC  
Attorney for Defendant  
101 W. Big Beaver Road, 10<sup>th</sup> Floor  
Troy, MI 48084-5280  
(248) 457-7020  
[tmullins@gmhlaw.com](mailto:tmullins@gmhlaw.com)  
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